

SUPPLEMENTAL AMENDMENT AND RESPONSE UNDER 37 CFR § 1.116 - EXPEDITED PROCEDURE  
Serial Number: 09/837602  
Filing Date: April 18, 2001  
Title: DNA ENCODING A DNA REPAIR PROTEIN

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Dkt: 800.019US2

### Remarks

Reconsideration and withdrawal of the rejection of the claims, in view of the amendments and remarks herein, is respectfully requested. Claims 1, 22-23 and 28 are amended. The amendments are intended to advance the application and are not intended to concede to the correctness of the Examiner's position or to prejudice the prosecution of the claims prior to amendment, which claims are present in an application related to the above-identified application. Claims 1-2, 4 and 20-28 are pending.

Amended claims 1, 22 and 23 are supported by originally-filed claim 1 and at page 14, lines 25-30 of the specification.

Amended claim 28 is supported at page 5, lines 18-21 and page 14, line 25-page 15, line 6 of the specification.

The Examiner is thanked for the courtesies extended to Applicant's Representative in the telephonic interview conducted on September 11, 2003, in which the rejection in the Advisory Action dated August 21, 2003 was discussed.

In the Advisory Action, the Examiner maintained the rejection of claims 1, 22-23 and 28 under 35 U.S.C. § 102(a) as being anticipated by either NCBI Accession No. AA577530 or NCBI No. AA535711. The amendment to claims 1 and 23 renders the § 102(a) rejection of claims 1, 23 and 28 moot.

With respect to claim 22, neither Accession No. AA577530 nor Accession No. AA535711 discloses an expression vector comprising a promoter operably linked to a nucleic acid segment which encodes a fusion polypeptide comprising at least a portion of a DNA repair polypeptide which binds an antibody specific for SEQ ID NO:2.

Accordingly, withdrawal of the § 102(a) rejection is respectfully requested.

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Conclusion

Applicant respectfully submits that the claims are in condition for allowance and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's attorney 612-373-6959 to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

Respectfully submitted,

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By their Representatives,

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Date

September 12, 2003

By

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I hereby certify that this paper is being transmitted by facsimile to the U.S. Patent and Trademark Office on the date shown below.

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